



# Compliance News

## Administrative Letter for Marketing Order Administration Branch Compliance Programs

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### Greetings & News



Seasons Greetings!  
The third edition of  
*Compliance News*  
for 2002 covers  
compliance activities from July  
through November 2002.

On December 5, we had our first snowstorm getting approximately 6-7 inches of snow. The snowstorm was followed by an ice storm on December 11. Winter has arrived early in the Nation's Capital!

Compliance Team member Karen Scott has accepted a position with the National Archives and Records Administration, College Park, Maryland. Karen came to MOAB in January of 1995 and has worked with the Compliance Team the whole time. Karen's last day with MOAB will be January 10, 2003. Please join me in wishing her well.

#### *Synopsis of Compliance Team Activity*

During this quarter, the Compliance Team resolved and closed 9 cases, approved 6 compliance plans, referred 5 cases to the Office of General Counsel for administrative adjudication proceedings, and issued 2 civil penalties.

#### *Management Reviews*

As you know, the Compliance Team annually conducts compliance reviews for a number of the marketing order programs. Our reviews have

primarily focused on activities listed in your annually submitted compliance plans. However, future compliance visits will include a management review. The management review will assess whether overall administrative committee operations are performed in accordance with the established rules and regulations, i.e., budget, OMB policy, as well as, by-law and marketing policies.

To all of you who have had a recent review, thank you for your cooperation and continued efforts in administering an effective compliance program.

*Barbara Schulke,  
Compliance Program Manager*

### Marketing Order Compliance

#### *15A Hearing Decision*

On November 7, 2002, Administrative Law Judge James Hunt issued his Decision and Order in which AMS is directed to void any decision to suspend packing holidays that may be made by the California Desert Grape Committee, without standards/criteria in place for making such decisions.

A desert grape handler filed a 15A petition with the

Department to modify the marketing order for California grapes or exempt the petitioner from the packing holiday regulations. The hearing was held on May 8 in Palm Springs, CA.

Another 15A hearing is scheduled for February 18, 2002. Gerawan Farming, Inc., a California handler subject to both the nectarine and peach marketing orders, filed a petition asking the Secretary to declare the marketing orders' advertising, promotion and "other related speech related" activities unconstitutional in light of the Supreme Court's recent United Foods decision. Gerawan also seeks to be excluded from all future marketing assessments for such activities and is withholding the promotion portion of its assessment payments. On December 12, 2002, USDA filed a motion to consolidate the 15A and 14B case. Gerawan is charged with violations of both orders.

Two 14B hearings are scheduled for the upcoming year. Golden Sun Gem, formerly known as Sun Fruit, Inc., Madera, CA, for alleged violations of the California Raisin and Almond Marketing Orders, including failure to obtain inspections, pay assessments and file reports. The hearing is scheduled for February 25, 2003, in Fresno, CA.

Tut Brothers, Watsonville, CA., also failed to pay assessments and file reports as required

under the California Almond Marketing Order. Tut Brother's hearing is scheduled for March 19, 2003.

### ***Complaints Filed:***

The Department has also filed administrative complaints against a few handlers. A complaint has been filed against Gerrald's Vidalia Sweet Onion Inc., a handler of Vidalia onions grown in Georgia, for failing to pay assessments during the 2001 crop year. A second complaint was filed against Lion Raisins, Selma, California to deny AMS inspection and grading services. This action is based upon additional evidence found by USDA inspectors during the Department's ongoing investigation into allegations that Lion Raisins altered USDA inspection certificates on raisins sold to overseas customers. Finally, we are pursuing legal action against Pembleton Produce, Mercedes, Texas, for failing to pay 2001 assessments as required under the South Texas Onion Marketing Order.

### ***DOJ Enforces Subpoena***

The U.S. Department of Justice, Southern District of Texas, and Brownsville Division successfully enforced the Department's petition for enforcement of an Administrative Investigative Subpoena. The subpoena was issued twice, to no avail, on a handler subject to the Marketing Order for Oranges and Grapefruit Grown in the Lower Rio Grande Valley in Texas.

The subpoena was issued to determine if the handler's activities and operations were in conformance with the marketing order.

### ***Program Reviews***

We have completed three of our scheduled compliance program reviews. They include:

916/917	CA Tree Fruit
946	WA Potatoes
956	Walla Walla Onions

The following program reviews will be completed in early 2003.

925	CA Desert Grapes
958	ID/OR Onions
981	Almonds
984	Walnuts

### ***Fines and Penalties:***

AMS has withdrawn inspection and grading services from Edward Martin Orchards, Gustine, California. Edward Martin failed to pay assessments for both the Peach and Nectarine Marketing Orders for the 1998 and 2000 crop years. Mr. Martin was also ordered to pay his assessments in addition to civil penalties for both marketing order violations by a USDA Administrative Law Judge.

Reminder to Committee Managers:



All compliance plans must be updated and approved by the Department annually. If your plan has been reviewed and

returned with recommendations, please submit the revised plan to the appropriate Marketing Field Office. They will forward the plan to the Compliance Team.

## **Section 8e Compliance**

### ***8e Port Visits***

We are tentatively scheduled to visit several ports of entry. They are Houston and Rio Grande City, TX, Derby Line and Highgate Springs, VT, Port Huron, MI, Fairfield and Fort Kent, and Van Buren, ME, San Luis, AZ, and Wilmington, DE. Please contact us for more detailed information.

### ***Spot Check for Canadian Potatoes***

Random spot checks of Canadian potatoes entering through ports of entry in the Northeastern United States for the 2002-2003 shipping season started November 25, 2002. Border inspections showed that last season less than 1 percent of the Canadian potato imports were suspected of not meeting 8e import requirements.

### ***Termination of Marketing Order for Florida Limes:***

As a result of a September 2002 continuance referendum and following a 60-day notification to Congress, the Marketing Order for Florida Limes was terminated.

The Florida Lime Program had been suspended effective February 19, 2002, because of citrus canker. The suspension

gave the industry time to evaluate the eradication efforts and make a decision concerning the Program.

### ***Fines and Penalties***

Two importers paid reduced penalties of \$59,000 and \$4,000 for failing to present several shipments of imported avocados and kiwifruit, respectively, for an AMS quality inspection as required under Section 8e import requirements.

### ***Spanish Import Summaries***

The Import Summaries have been translated into Spanish and are available on our website. Please feel free to download and distribute as necessary.

### ***8e Import Data Summaries***

The remainder of this newsletter summarizes 8e import data, which are reported for the time period January through August 2002. The data for this analysis comes from two different sources. The first source, MOAB's compliance database, provides data for the country of origin and port of entry percentages. The second source is total metric ton volume and monthly volume figures from the Census Bureau supplied to the USDA, Foreign Agricultural Service.

Please note that even though we are not regulating imported limes, we have reported the quantities of imported limes in the 8e Import Data Summaries.

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Our *Compliance News* is available on our website at: <http://www.ams.usda.gov/fv/8eWelcome.html>. If you have any questions, comments, or suggestions for future editions of *Compliance News*, please e-mail me at [Barbara.Schulke@usda.gov](mailto:Barbara.Schulke@usda.gov)

**Avocados****Port of Entry**

	2001 (JAN-AUG)	2002 (JAN-AUG)	
LOS ANGELES, CA	33.5%	34.6%	30,000
NEWARK, NJ	13.0%	14.2%	
CHICAGO, IL	7.3%	13.8%	25,000
PHILADELPHIA, PA	13.9%	11.6%	
	67.8%	74.3%	20,000

**Country of Origin**

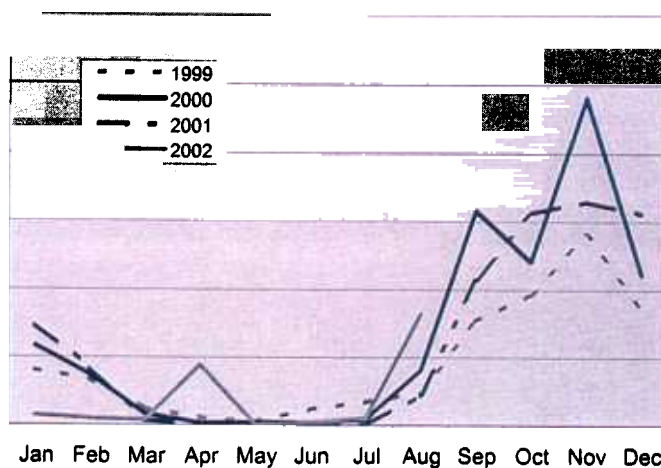
	2001 (JAN-AUG)	2002 (JAN-AUG)	
MEXICO	40.7%	44.2%	15,000
CHILE	35.4%	42.0%	10,000
DOMINICAN REPUBLIC	22.5%	13.3%	
	98.6%	99.5%	5,000

**Total Imported**

Metric Tons	11,941	,597
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**Marketing Order Period**

By Variety

**Dates****Port of Entry**

	2001 (JAN-AUG)	2002 (JAN-AUG)	
MINNEAPOLIS-ST. PAUL, MN	49.2%	45.2%	1,000
NEWARK, NJ	26.9%	27.5%	
LOS ANGELES, CA	10.2%	20.1%	900
NEW YORK, NY	0.4%	3.1%	
	86.7%	96.0%	800

**Country of Origin**

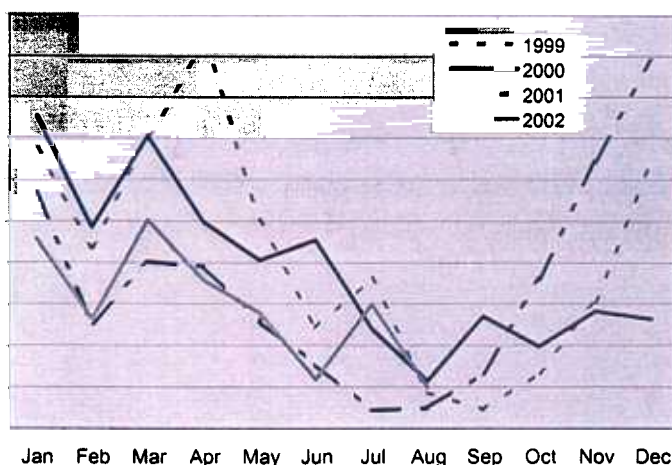
	2001 (JAN-AUG)	2002 (JAN-AUG)	MT
PAKISTAN	50.8%	52.7%	500
IRAN	18.8%	34.2%	400
CHINA	18.0%	7.8%	300
	87.6%	94.7%	200

**Total Imported**

Metric Tons	,224	,224
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**Marketing Order Period**

All Year

**Grapefruit****Port of Entry**

	2001 (JAN-AUG)	2002 (JAN-AUG)	
FORT PIERCE, FL	89.9%	99.7%	7,000
NEWARK, NJ	0.0%	0.1%	
NOGALES, AZ	0.4%	0.1%	6,000
	0.0%	0.0%	
	90.3%	100.0%	5,000

**Country of Origin**

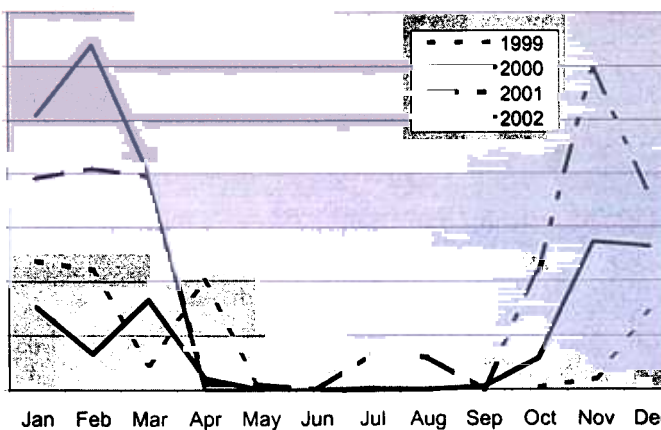
	2001 (JAN-AUG)	2002 (JAN-AUG)	MT
BAHAMAS	89.9%	99.7%	4,000
ISRAEL	0.0%	0.1%	3,000
MEXICO	0.4%	0.1%	2,000
	90.3%	100.0%	1,000

**Total Imported**

Metric Tons	11,986	15,540
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**Marketing Order Period**

All Year





**Hazelnuts/Filberts****Port of Entry**

	2001	2002
	(JAN-AUG)	(JAN-AUG)
NEW YORK, NY	56.9%	35.3%
NEWARK, NJ	30.1%	32.8%
NEWPORT NEWS, VA	2.2%	18.4%
NORFOLK, VA	4.4%	3.6%
	93.7%	90.1%

**Country of Origin**

	2001	2002
	(JAN-AUG)	(JAN-AUG)
TURKEY	97.8%	98.3%
TOKELAU	0.0%	0.7%
ITALY	2.0%	0.7%
	99.8%	99.7%

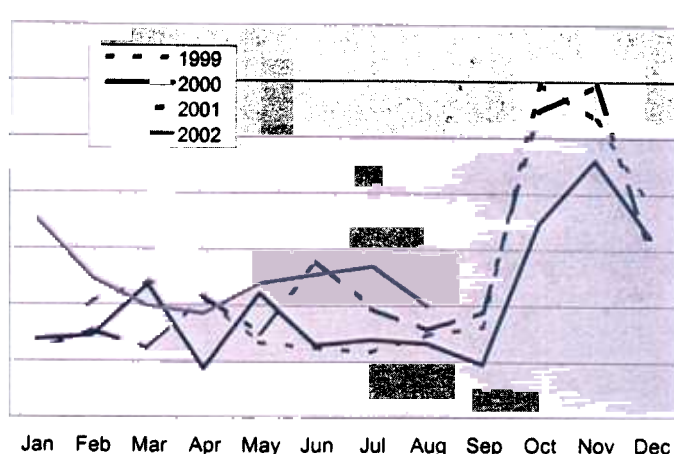
**Total Imported**

Metric Tons	786	1,597
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**Marketing Order Period**

All Year

MT

**Kiwifruit****Port of Entry**

	2001	2002
	(JAN-AUG)	(JAN-AUG)
PHILADELPHIA, PA	31.2%	52.9%
NEWARK, NJ	39.8%	32.3%
LOS ANGELES, CA	23.8%	8.2%
#REF!	3.6%	#REF!
	98.4%	#REF!

**Country of Origin**

	2001	2002
	(JAN-AUG)	(JAN-AUG)
CHILI	54.5%	64.6%
ITALY	10.2%	18.6%
NEW ZEALAND	34.0%	14.6%
	98.7%	97.8%

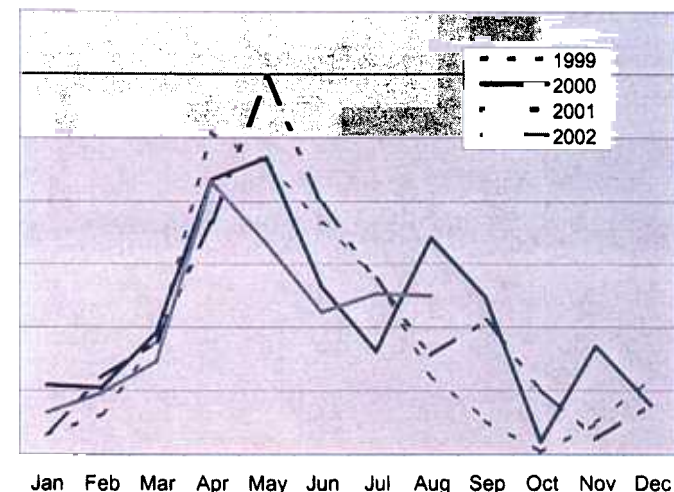
**Total Imported**

Metric Tons	6,651	6,180
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**Marketing Order Period**

All Year

MT

**Limes****Port of Entry**

	2001	2002
	(JAN-AUG)	(JAN-AUG)
OTAY MESA STATION, CA	3.6%	38.1%
MIAMI, FL	1.7%	19.2%
NOGALES, AZ	0.7%	15.4%
RIO GRANDE CITY, TX	0.3%	10.3%
	6.3%	83.0%

**Country of Origin**

	2001	2002
	(JAN-AUG)	(JAN-AUG)
MEXICO	98.8%	80.8%
ECUADOR	0.8%	18.7%
DOMINICAN REPUBLIC	0.0%	0.5%
	99.6%	100.0%

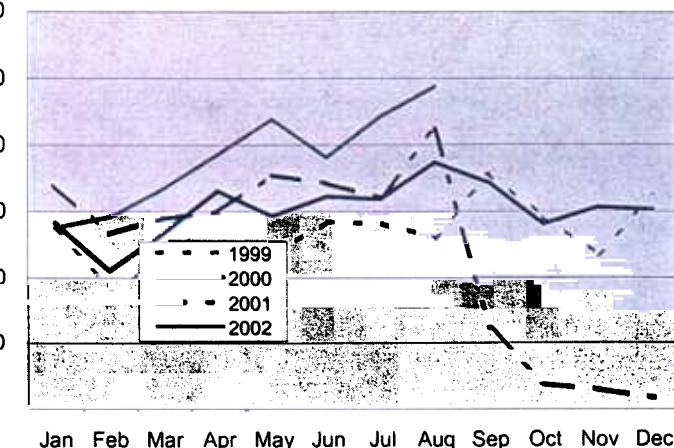
**Total Imported**

Metric Tons	44,742	44,895
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**Marketing Order Period**

All Year

MT



**Olives****Port of Entry**

	2001	2002	
	(JAN-AUG)	(JAN-AUG)	
NEWARK, NJ	19.0%	21.9%	4,000
BALTIMORE, MD	22.2%	19.1%	3,500
SAN FRANCISCO, CA	6.3%	11.5%	3,000
HOUSTON, TX	12.5%	11.1%	2,500
	60.0%	63.5%	2,000

**Country of Origin**

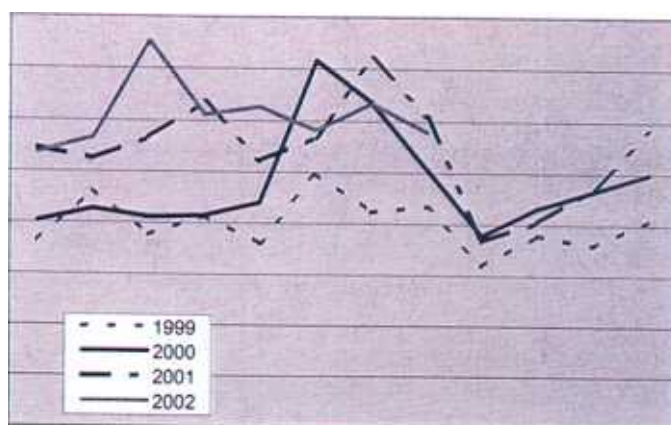
	2001	2002	MT
	(JAN-AUG)	(JAN-AUG)	
SPAIN	69.8%	67.1%	1,500
MOROCCO	27.6%	29.8%	1,000
TURKEY	0.7%	1.2%	500
	98.2%	98.1%	

**Total Imported**

Metric Tons	8,190	9,280
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**Marketing Order Period**

All Year



Jan Feb Mar Apr May Jun Jul Aug Sep Oct Nov Dec

**Onions\***

\*Onion import data includes green onion volumes (non-8e) due to use of same tariff Code

**Port of Entry**

	2001	2002	
	(JAN-AUG)	(JAN-AUG)	
HIDALGO, TX	31.6%	38.0%	45,000
CALEXICO (EAST), CA	20.8%	21.8%	40,000
SAN LUIS, AZ	9.2%	8.9%	35,000
BUFFALO-NIAGARA FALLS, NY	5.7%	5.5%	30,000
	67.3%	74.2%	25,000

**Country of Origin**

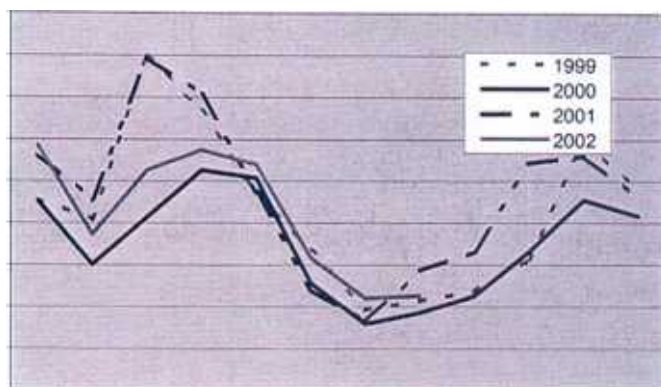
	2001	2002	MT
	(JAN-AUG)	(JAN-AUG)	
MEXICO	78.5%	79.2%	20,000
CANADA	12.4%	12.7%	15,000
PERU	2.7%	3.5%	10,000
	93.6%	95.4%	5,000

**Total Imported**

Metric Tons	90,621	74,175
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**Marketing Order Period**

All Year



Jan Feb Mar Apr May Jun Jul Aug Sep Oct Nov Dec

**Oranges****Port of Entry**

	2001	2002	
	(JAN-AUG)	(JAN-AUG)	
NOGALES, AZ	24.7%	51.8%	18,000
SAN DIEGO, CA	29.1%	11.8%	16,000
PHILADELPHIA, PA	30.3%	9.9%	14,000
FORT PIERCE, FL	7.0%	9.4%	12,000
	91.2%	83.0%	10,000

**Country of Origin**

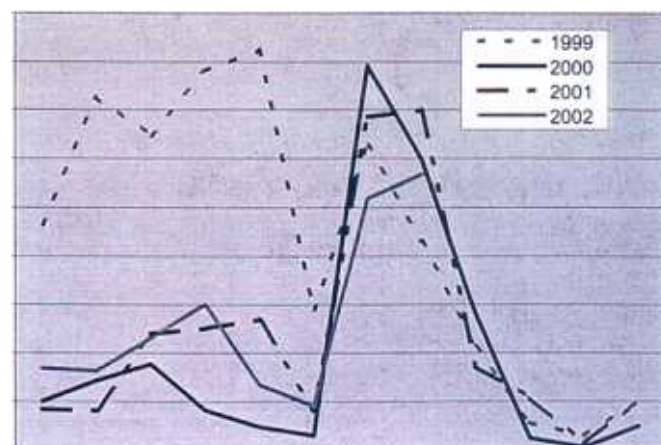
	2001	2002	MT
	(JAN-AUG)	(JAN-AUG)	
MEXICO	27.5%	62.4%	8,000
AUSTRALIA	29.5%	12.2%	6,000
BAHAMAS	7.0%	9.4%	4,000
	64.0%	84.0%	2,000

**Total Imported**

Metric Tons	8,088	11,239
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**Marketing Order Period**

Sep 1 - Jun 30



Jan Feb Mar Apr May Jun Jul Aug Sep Oct Nov Dec

**Potatoes****Port of Entry**

	2001	2002
	(JAN-AUG)	(JAN-AUG)
HOULTON, ME	39.1%	28.7%
BUFFALO-NIAGARA FALLS, NY	5.8%	17.0%
CHAMPLAIN-ROUSES, NY	16.3%	12.1%
SAN JUAN, PR	10.8%	10.3%
	71.9%	68.1%

**Country of Origin**

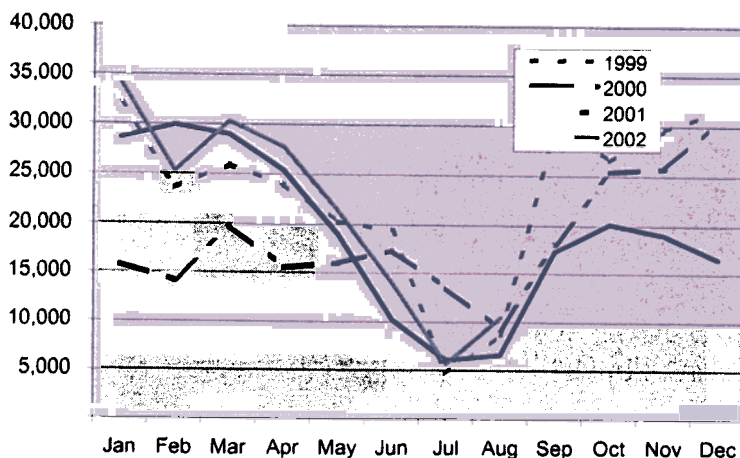
	2001	2002
	(JAN-AUG)	(JAN-AUG)
CANADA	99.78%	99.96%
COSTA RICA	0.000%	0.017%
JAPAN	0.020%	0.013%
	99.80%	99.99%

**Total Imported**

Metric Tons	49,626	89,792
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**Marketing Order Period**

All Year

**Prunes****Port of Entry**

	2001	2002
	(JAN-AUG)	(JAN-AUG)
SAN FRANCISCO, CA	84.4%	65.9%
NEWARK, NJ	0.0%	12.0%
NEW YORK, NY	0.0%	10.8%
LOS ANGELES, CA	0.5%	9.1%
	84.4%	88.7%

**Country of Origin**

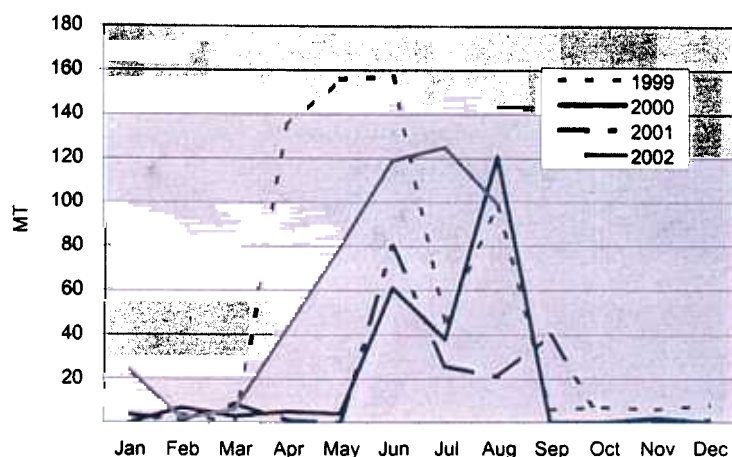
	2001	2002
	(JAN-AUG)	(JAN-AUG)
ARGENTINA	84.6%	83.9%
IRAN	1.1%	13.4%
MEXICO	0.0%	1.3%
	85.7%	98.6%

**Total Imported**

Metric Tons		32
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**Marketing Order Period**

All Year

**Raisins****Port of Entry**

	2001	2002
	(JAN-AUG)	(JAN-AUG)
NEWARK, NJ	45.7%	41.5%
NOGALES, AZ	27.0%	27.1%
SAN FRANCISCO, CA	11.1%	21.5%
BALTIMORE, MD	3.0%	2.7%
	86.8%	92.8%

**Country of Origin**

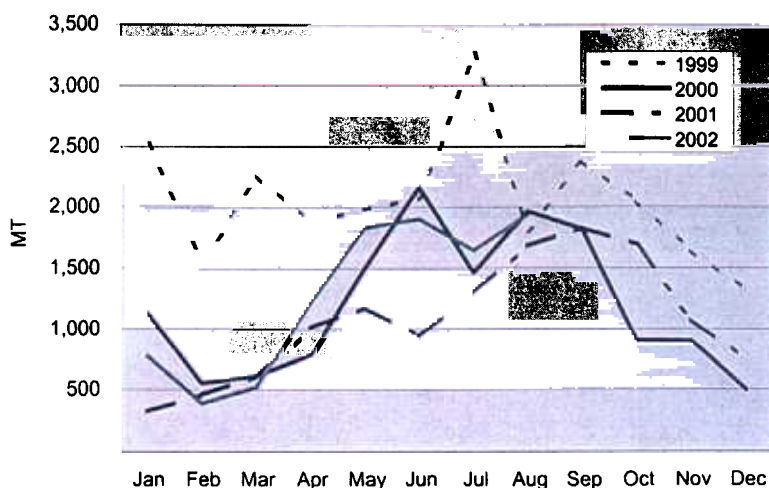
	2001	2002
	(JAN-AUG)	(JAN-AUG)
CHILI	46.7%	28.9%
MEXICO	27.0%	27.2%
ARGENTINA	11.8%	22.0%
	85.6%	78.1%

**Total Imported**

Metric Tons		684
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**Marketing Order Period**

All Year





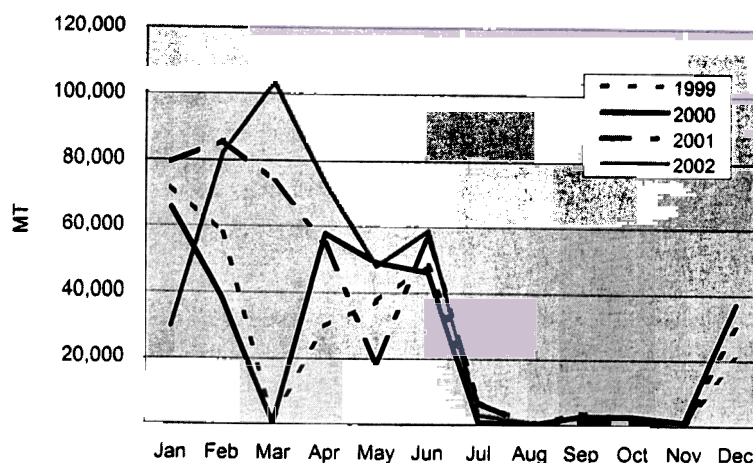
**Table Grapes**

<u>Port of Entry</u>	2001 (JAN-AUG)	2002 (JAN-AUG)
PHILADELPHIA, PA	5.7%	54.1%
WILMINGTON, DE	49.4%	28.2%
LOS ANGELES, CA	39.2%	13.8%
NOGALES, AZ	4.5%	2.2%
	98.8%	98.3%

<u>Country of Origin</u>	2001 (JAN-AUG)	2002 (JAN-AUG)
CHILE	94.7%	95.1%
ARGENTINA	0.2%	2.5%
MEXICO	4.7%	2.2%
	99.6%	99.9%

**Total Imported**

Metric Tons	238,731	215,425
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**Marketing Order Period**

Apr 20 - Aug 15

**Tomatoes\***

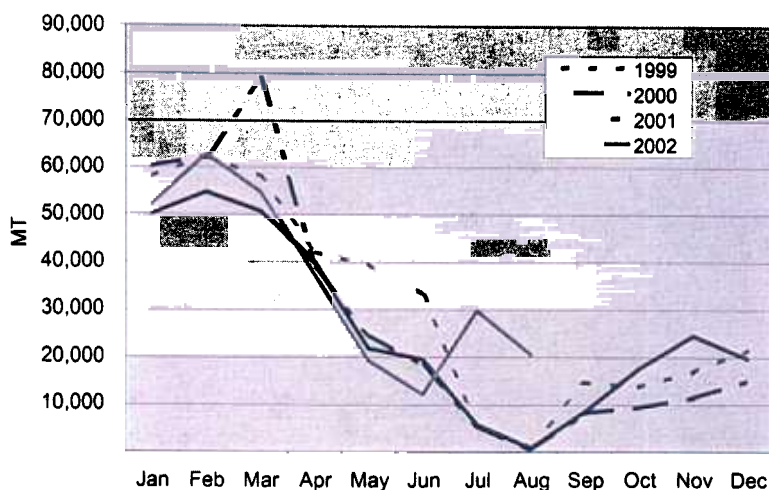
\*Tomato import data includes hot house volumes (non-8e) due to use of same tariff Code

<u>Port of Entry</u>	2001 (JAN-AUG)	2002 (JAN-AUG)
NOGALES, AZ	69.0%	83.0%
OTAY MESA STATION, CA	16.1%	12.0%
LAREDO, TX	0.0%	1.4%
HIDALGO, TX	1.0%	0.9%
	86.1%	97.2%

<u>Country of Origin</u>	2001 (JAN-AUG)	2002 (JAN-AUG)
MEXICO	86.4%	97.5%
NETHERLANDS	2.4%	1.8%
ISRAEL	0.1%	0.4%
	89.0%	99.6%

**Total Imported**

Metric Tons	201,750	169,831
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**Marketing Order Period**

Oct 10 - Jun 15

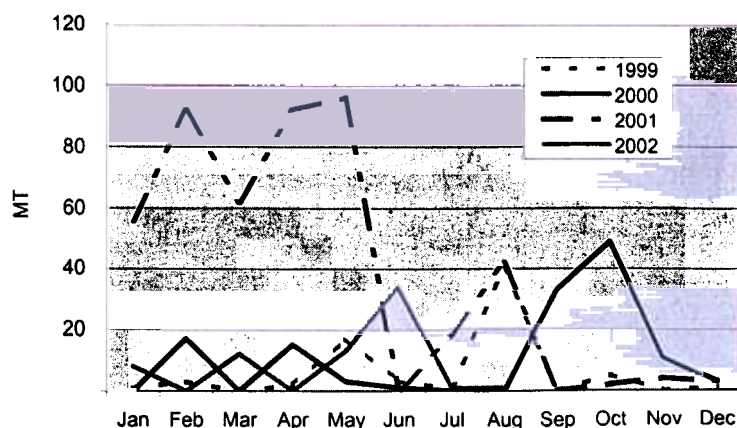
**Walnuts**

<u>Port of Entry</u>	2001 (JAN-AUG)	2002 (JAN-AUG)
LOS ANGELES, CA	2.1%	37.5%
NEWARK, NJ	34.8%	30.6%
SAN FRANCISCO, CA	20.0%	14.9%
BLAINE, WA	24.4%	9.2%
	81.3%	92.2%

<u>Country of Origin</u>	2001 (JAN-AUG)	2002 (JAN-AUG)
CHINA	46.9%	39.7%
KYRGYZSTAN	0.0%	15.8%
UZBEKISTAN	0.0%	14.7%
	46.9%	70.2%

**Total Imported**

Metric Tons	210	20
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**Marketing Order Period**

All Year